

CONFERENCE COMMITTEE REPORT DIGEST

House Bill No. 381 by Representative Hoffmann

Digest of Bill as Finally Passed by the House

Hoffmann

HB No. 381

Proposed law provides that any person or firm contracted by a state, parish, or municipal tax authority to perform mass appraisal assignments is exempt from the licensing requirements.

(Amends R.S. 37:3393(H)(5), (6), and (7); Adds R.S. 37:3393(H)(8))

Summary of Amendments Adopted by the Senate

Senate Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the Engrossed Bill.

1. Makes technical corrections.
2. Establishes the Louisiana Appraisal Management Company Licensing and Regulation Act.
3. Provides for definitions.
4. Requires an appraisal management company to obtain a license to do business in Louisiana.
5. Provides for exemptions.
6. Provides for requirements for ownership in an appraisal management company.
7. Provides for record keeping.
8. Requires the appraisal fee to be listed separately on the real estate closing documents.
9. Prohibits an appraisal management company from withholding or threatening to withhold the appraisal fee in order to coerce or influence the development, reporting, or review of the appraisal.
10. Provides that the appraisal fees shall be in compliance with the Uniform Standards of Professional Appraisal Practice.
11. Provides for adjudication of disputes between an appraisal management company and an appraiser.
12. Provides for enforcement.
13. Provides for disciplinary hearings.
14. Provides for rulemaking authority through the Administrative Procedure Act.
15. Provides for severability of the provisions of the Act.

Senate Floor Amendments to the Engrossed Bill.

1. Makes technical corrections.

2. Requires administrative rules to be approved by the House of Representatives Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs prior to adoption.

Digest of Bill as Proposed by Conference Committee

Proposed law provides that any person or firm contracted by a state, parish, or municipal tax authority to perform mass appraisal assignments is exempt from the licensing requirements.

Proposed law establishes the Louisiana Appraisal Management Company Licensing and Regulation Act.

Proposed law provides for the following definitions:

- (1) "Appraisal" means the act or process of developing an opinion of value of real property following the appraisal process defined by the Uniform Standards for Professional Appraisal Practice.
- (2) "Appraisal management company" means any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that engages in any of the following activity:
 - (a) Administers a network of independent contract appraisers to perform real estate appraisal services for lenders or other clients.
 - (b) Receives requests for residential appraisal services from clients and enters into agreements, written or otherwise, with one or more independent appraisers to perform the real estate appraisal services contained in the request.
- (3) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal services from a client, and for a fee paid by the client, entering into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request.
- (4) "Appraiser" is defined as one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.
- (5) "Appraiser panel" means a group of appraisers that has been selected by an appraisal management company to perform real estate appraisal services for the appraisal management company on behalf of lenders or other clients.
- (6) "Board" means the Louisiana Real Estate Appraisers Board.
- (7) "Client" means any person or entity that contracts with or otherwise enters into an agreement for the performance of residential real estate appraisal services.
- (8) "Controlling person" means any of the following:
 - (a) An owner, officer or director of a corporation, partnership or other business entity seeking to offer appraisal management services in this state.
 - (b) An individual employed, appointed, or authorized by an appraisal management company who has the authority to enter into a contractual relationship with clients to contract for the performance of appraisal management services and has the authority to enter into agreements with independent appraisers for the performance of real estate appraisal services.
 - (c) An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.

- (10) "Real estate appraisal services" means residential valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting, as these services are defined under the Uniform Standards for Professional Appraisal Practice.

Proposed law requires an appraisal management company to obtain a license to do business in Louisiana.

Proposed law requires the license to include the following information:

- (1) The name of the entity seeking a license.
- (2) The business address of the entity seeking a license.
- (3) The phone contact information of the entity seeking a license.
- (4) If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state.
- (5) The name, address, and contact information of any individual, corporation, partnership, or other business entity that has any ownership interest in the appraisal management company.
- (6) The name, address, and contact information for a controlling person.
- (7) Certification that the entity has a system and process in place to verify that a person being added to the appraiser panel of the appraisal management company holds an appraisal license in good standing in this state.
- (8) Certification that the entity has a system in place to review the work on a periodic basis of all independent appraisers that are performing real estate appraisal services for the appraisal management company to ensure that the real estate appraisal services are being conducted in accordance with Uniform Standards of Professional Appraisal Practice, pursuant to this Chapter.
- (9) Certification that the entity maintains a detailed record for five years of each real estate appraisal service request that it receives and an itemized list of all fees contracted with each appraiser who performs real estate appraisal services for the appraisal management company.
- (10) An irrevocable Uniform Consent to Service of Process.
- (11) Any other information required by the board.

Proposed law provides for exemptions from licensing for a business entity that exclusively employs persons on an employer/employee basis for the performance of real estate appraisal services, that enters into an agreement with another independent appraiser for the performance of real estate appraisals services that the hiring appraiser is unable to complete, or that enters into an agreement with an independent contractor appraiser if the appraisal report is cosigned by the hiring appraiser.

Proposed law provides that the license shall be valid for one year from the date of issuance.

Proposed law requires that a licensed company certify to the board, on an annual basis, that it maintains a detailed record for five years of each real estate appraisal service request, the fee paid by the lenders to all appraisers, and the names of all appraisers.

Proposed law requires the appraisal fee to be listed separately on the real estate closing documents.

Proposed law prohibits an appraisal management company from withholding or threatening to withhold the appraisal fee in order to coerce or influence the development, reporting, or review of the appraisal.

Proposed law prohibits an appraisal company from altering, modifying, or otherwise changing a completed real estate appraisal service report submitted by an appraiser.

Proposed law provides for adjudication of disputes between an appraisal management company and an appraiser.

Proposed law requires appraisal fees to be in compliance with the Uniform Standards of Professional Appraisal Practice.

Proposed law provides for enforcement and further that the board may levy fines or impose civil penalties not to exceed \$50,000 against any appraisal management company who violates any of the following acts:

- (1) Committing any act in violation of proposed law.
- (2) Violating any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of proposed law.
- (3) Procuring a license by fraud, misrepresentation, or deceit.

Proposed law provides that the board may impose a \$5,000 fine if an appraisal management company practices in Louisiana without a license.

Proposed law provides for disciplinary hearings and authorizes the board to establish administrative rules.

Proposed law requires the proposed administrative rules to be approved by the House of Representatives Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs prior to adoption.

Proposed law authorizes any appraisal management company doing business in La. at the time of passage of this Act may continue to perform such services without a license until the earlier of either such time that the rules and regulations pertaining to proposed law have been approved or Jan. 1, 2011.

Provides for the severability of proposed law.

Effective Jan. 1, 2010.

(Amends R.S. 37:3393(H)(5), (6), and (7); Adds R.S. 37:3393(H)(8) and 3415.1 through 3415.21)